

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

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PASS: EB FOR BOEKER; L FOR FELDMAN; TREASURY FOR LANGE;
COMMERCE FOR ARRILL; CIEP FOR GRANFIELD

E.O.11652: N/A

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SUBJECT: BIAC/TUAC CONSULTATIONS WITH INVESTMENT
COMMITTEE (CIME), NOVEMBER 18, 1975

REF: (A) IME(75)19 (1ST REVISION)

1. SUMMARY: EXPANDED BUREAU OF CIME (CHAired BY FRAU STEEG OF FRG, CHAIRMAN OF CIME) MET SEPARATELY WITH REPRESENTATIVES OF BIAC AND TUAC ON NOVEMBER 18 TO DISCUSS PROGRESS OF WORK ON REFDOC (A). BIAC WAS REPRESENTED BY BIAC COMMITTEE ON MNE'S, CHAired BY SIR MICHAEL CLAPHAM. ALSO IN ATTENDANCE WERE MR. RALPH WELLER, OF U.S.-BIAC, AND MR. ALEX RHEA, WHO REPRESENTED THE CHAIRMAN OF BIAC, AND MR. ALEX RHEA, WHO REPRESENTED THOMAS MURPHY, CHAIRMAN OF GENERAL MOTORS, AND U.S. MEMBER OF THE CLAPHAM COMMITTEE. WILLIS ARMSTRONG, OF THE U.S. COUNCIL TO THE INTERNATIONAL CHAMBER OF COMMERCE, WAS ALSO PRESENT. REPRESENTATIVES OF INTERESTED COUNTRY DELEGATIONS (INCLUDING U.S. DEL (BOEKER) ATTEND-
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ED MEETINGS. BIAC AND TUAC PRESENTED VIEWS ON GUIDELINES

AND MADE NUMEROUS DRAFTING SUGGESTIONS. TEXTS OF BIAC AND TUAC PROPOSALS HAND-CARRIED TO WASHINGTON BY BOEKER (STATE-EB), LANGE (TREASURY), ARRILL (COMMERCE) AND GRANFIELD (CIEP). END SUMMARY.

MEETING WITH BIAC

2, BIAC SPOKESMAN (CLAPHAM) OUTLINED BROADLY VIEWS REGARDING EACH SECTION OF GUIDELINES. AS TO PREAMBLE, HE UNDERScoreD NECESSITY FOR NON-DISCRIMINATORY TREATMENT OF MNE'S AND FACT THAT POLICY OBJECTIVES OF STATES IN WHICH MNE'S OPERATE ARE NOT ALWAYS THE SAME, AND NOT ALWAYS ENTIRELY CLEAR. CLAPHAM ALSO REITERATED EXPRESS WISH OF BIAC THAT ALL MNE'S SHOULD BE TREATED EQUALLY UNDER GUIDELINES AND THEIR INTERPRETATION, WHATEVER THEIR FINAL FORM. OTHER MEMBERS OF BIAC EMPHASIZED THAT UNDER TERMS OF PREAMBLE, IT MIGHT BE MORE DIFFICULT FOR SMALLER COMPANIES TO ENTER THE INTERNATIONAL SPHERE.

3. GENERAL POLICIES: CLAPHAM STRESSED THAT GENERAL POLICIES OF COUNTRIES IN WHICH MNE'S OPERATE ARE NOT READILY ASCERTAINABLE. AS TO PARA 6 OF THIS SECTION (ON BRIBERY AND CORRUPTION), HE EXPRESSED GENERAL DIS-APPOINTMENT AT LANGUAGE, AND SUGGESTED "DRACONIAN" LANGUAGE TO INDICATE MORE VIGOROUS ATTEMPT TO STOP SUCH PRACTICES. U.S. DEL (BOEKER) INTERJECTED THAT PERHAPS IT IS NECESSARY TO DISTINGUISH WHAT KIND OF LANGUAGE IS SUITABLE IN A VOLUNTARY CODE AND WHAT KIND OF ACTION OR LEGISLATION WOULD BE SUITABLE ON THE INTERGOVERNMENTAL LEVEL. WILLIS ARMSTRONG SUGGESTED THE NEED FOR A STRONG STATEMENT OF HIGH STANDARDS TO WHICH BUSINESS COULD VOLUNTARILY REPAIR.

4. DISCLOSURE OF INFORMATION: CLAPHAM STATED THAT TECHNICAL INTERPRETATION OF DATA IN THIS SPHERE WOULD BE VERY DIFFICULT, ALTHOUGH MOST MNE'S COULD ENDORSE PARA 1 OF DISCLOSURE SECTION. THERE WAS A NEED TO DETERMINE A REASONABLE AMOUNT OF DATA TO BE PROVIDED, GIVEN THE COSTS AND EFFORTS REQUIRED IN COMPARISON WITH THE BENEFIT OF IMPROVED PUBLIC UNDERSTANDING. CLAPHAM STATED THAT, IN GENERAL, ALTERNATIVE B WAS UNWORKABLE. HE LIMITED OFFICIAL USE

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AVERRED THAT COUNTRY-BY-COUNTRY BREAKDOWN WOULD BE DIFFICULT FOR MNE'S BECAUSE, GENERALLY, THEY DO NOT KEEP RECORDS ON THIS BASIS NOW. FOR EXAMPLE, THE AREA OF RESPONSIBILITY OF A COUNTRY AFFILIATE MAY BE LARGER THAN THE COUNTRY IN WHICH IT IS BASED (E.G. GM-OPEL). DISCLOSURE OF CONSOLIDATED RESULTS WOULD BE MUCH MORE MEANINGFUL, AND MORE READILY AVAILABLE. AS TO DISCLOSURE OF FINANCIAL RESULTS, QUESTION OF CONFIDENTIALITY MAY

ARISE, ESPECIALLY IN THE CASE WHEN AN MNE MIGHT HAVE ONLY ONE OR TWO CLIENTS IN A COUNTRY. IN THIS RESPECT AND FOR OTHER SPECIFIC DATA LISTED UNDER ALTERNATIVE B, MNE'S COULD NOT MEET REQUESTES FOR COUNTRY-BY-COUNTRY

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BREAKDOWN. THE JAPANESE BIAC DELEGATE INDICATED A FURTHER SPECIAL PROBLEM IN JAPAN, WHERE THERE IS NO CONSOLIDATED ACCOUNTING SYSTEM.

5. RESTRICTIVE BUSINESS PRACTICES: BIAC EXPRESSED GRAVE CONCERNS ABOUT THIS SECTION AND ABOUT FACT THAT THERE HAD BEEN INSUFFICIENT DIALOGUE BETWEEN THE BIAC AND THE RESPONSIBLE OECD COMMITTEES. AN EXAMPLE WAS INDICATED IN USE OF THE PHRASE "ENHANCEMENT OF MARKET POWER" IN PARA 1 OF RBP SECTION. THIS IS NOT REGARDED AS BAD BEHAVIOR IN MANY COUNTRIES. BIAC PROVIDED A REDRAFT OF RBP SECTION TO CIME. RALPH WELLER INDICATED THAT IT IS DIFFICULT TO ACCEPT GENERAL PRINCIPLES WHEN RULES AND POLICIES OF COUNTRIES IN THIS AREA ARE INCOMPATIBLE. GUENTHER, CHAIRMAN OF COMMITTEE FOR

RESTRICTIVE BUSINESS PRACTICES (CRBP) INDICATED CRBP, INCLUDING ITS WORKING PARTY 11, WILL LOOK AT BIAC PAPER TO SEE IF BIAC IDEAS CAN BE INCLUDED.

6. TAXATION: BIAC FELT IT WOULD BE IMPOSSIBLE TO PROVIDE INFORMATION ON ALL THE ACTIVITIES OF EACH MNE TO LIMITED OFFICIAL USE

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ALL TAX AUTHORITIES. THIS INFORMATION REQUIREMENT SHOULD BE LIMITED TO EACH COMPONENT UNIT'S ACTIVITIES IN EACH COUNTRY.

7. EMPLOYMENT: BIAC INDICATED THAT EMPLOYMENT PHILOSOPHIES VARY WIDELY FROM COUNTRY TO COUNTRY. THEREFORE, AFFILIATES SHOULD BE TREATED AS NATIONAL COMPANIES. PARAS 1-6 OF THIS SECTION PROVIDE NO DIFFICULTIES TO BIAC. PARAS 7 AND 8 ARE UNACCEPTABLE, ESPECIALLY PARA 8, WHICH SEEMS TO SUPPORT THE CONCEPT OF MULTINATIONAL COLLECTIVE BARGAINING.

8. TECHNOLOGY: BIAC HAD NO SUBSTANTIVE COMMENTS ON THIS SECTION.

MEETING WITH TUAC

9. IN AFTERNOON SESSION, TUAC PRESENTED ITS VIEWS ON GUIDELINES. EXTENSIVE DRAFTING SUGGESTIONS WERE MADE, ESPECIALLY IN SECTIONS ON EMPLOYMENT, DISCLOSURE OF INFORMATION, AND CORRUPT PRACTICES. TUAC ALSO REQUESTED THAT ITS REPRESENTATIVES SHOULD BE ALLOWED TO ATTEND CIME CONSULTATIONS AFTER GUIDELINES ARE IN PLACE.

10. DRAFTING CHANGES: TUAC SUGGESTED SIMPLIFICATION OF TEXT ON POLITICAL INVOLVEMENT, CALLING ON MNE'S TO REFRAIN FROM ANY CORRUPT PRACTICES. FOLLOWING THIS PROVISION IN GENERAL POLICIES SECTION, TUAC WISHED TO ADD NEW SECTION ON "NATIONAL SOCIAL AND ECONOMIC INTEREST." SEVERAL CHANGES WERE SUGGESTED TO ALTERNATIVE B OF DISCLOSURE SECTION, MAKING REQUIREMENTS SOMEWHAT MORE EXTENSIVE. IN ADDITION, SUBSTANTIAL CHANGES WERE SUGGESTED TO EMPLOYMENT SECTION, ESPECIALLY TO RECOGNIZE TRADE UNIONS AND EMPLOYEES' RIGHTS TO ADEQUATE COLLECTIVE BARGAINING REPRESENTATION.

11. CHAIRMAN STEEG OF CIME STATED THAT CIME WOULD CONSIDER THE VARIOUS BIAC AND TUAC PROPOSALS IN ITS DELIBERATIONS.
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